

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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FRANZ GOLDING,

Petitioner,

v.

WARDEN, FCI FT. DIX,

Respondent.

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Civ. No. 20-6571 (NLH)

MEMORANDUM & ORDER

APPEARANCES:

Franz Golding  
57696-054  
PO Box 2000  
Joint Base MDL, NJ 08640

Petitioner pro se

John Francis Basiak  
United States Attorney's Office  
402 E. State St., Room 430  
Trenton, NJ 08608

Respondent

HILLMAN, District Judge

Petitioner is a federal prisoner currently incarcerated at F.C.I. Fort Dix in Fort Dix, New Jersey. He is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On July 2, 2020, this Court ordered Respondent to respond to Petitioner's habeas petition. See ECF No. 5. This Court instructed Respondent that it could file a motion to dismiss on

jurisdictional grounds only or file a full and complete answer to the habeas petition. See id. The order further instructed the parties that any request to deviate from it needed to be made by motion. See id.

Respondent received two extensions of time to respond to Petitioner's habeas petition. See ECF Nos. 8 & 10. On October 7, 2020, Respondent filed a motion to dismiss Petitioner's habeas petition. See ECF No. 11. Respondent's motion to dismiss makes two arguments: (1) this Court should dismiss the habeas petition pursuant to the concurrent sentence doctrine; or, alternatively, (2) this Court should deny the habeas petition on the merits. See id. Neither argument implicates this Court's jurisdiction to consider Petitioner's habeas petition under § 2241.

Accordingly, given that Respondent's failure to make a jurisdictional argument within its motion to dismiss, the motion to dismiss is administratively terminated.<sup>1</sup> Respondent shall file a response to the habeas petition instead of a motion to dismiss. Respondent is free to make similar and/or additional arguments in its response as it made in its motion to dismiss as

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<sup>1</sup> Respondent did not seek permission by motion to deviate from this Court's July 2, 2020 order to answer which permitted a motion to dismiss only on jurisdictional grounds.

this memorandum and order makes no findings as to the arguments Respondent made therein.

Therefore, IT IS on this 4th day of June, 2021,

ORDERED that Respondent's motion to dismiss, ECF No. 11, is administratively terminated; and it is further

ORDERED that Respondent shall file a response to Petitioner's habeas petition within fourteen (14) days of the date of this memorandum and order; and it is further

ORDERED that Petitioner may file a reply brief within thirty (30) days of Petitioner's receipt of Respondent's response to his habeas petition; and it is further

ORDERED that the Clerk shall serve this memorandum and order on Petitioner by regular U.S. mail.

At Camden, New Jersey

s/ Noel L. Hillman  
NOEL L. HILLMAN, U.S.D.J.